

SENATE BILL NO. 426

INTRODUCED BY G. PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A LOCAL GOVERNMENT FROM REQUIRING THE DEDICATION OF PROPERTY OR THE PAYMENT OF A FEE TO PROVIDE HOUSING AS PART OF LAND USE REGULATIONS; AMENDING SECTIONS 7-2-4203, 76-2-203, AND 76-2-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Housing fees or dedications prohibited.** A resolution adopted by a board of county commissioners under this part may not include a requirement to dedicate property to or pay a fee for the purpose of providing housing within the county.

NEW SECTION. **Section 2. Housing fees or dedications prohibited.** The governing body may not require, as a condition for approval of a subdivision under this part, a subdivider to dedicate property to or pay a fee for the purpose of providing housing within the governing body's jurisdiction.

Section 3. Section 7-2-4203, MCA, is amended to read:

"7-2-4203. Imposition of conditions for approval of addition. (1) The council ~~has power by ordinance to may~~ compel the owners of ~~these the~~ additions to lay out streets, avenues, and alleys, ~~so as to have the same~~ correspond in width and direction and be continuations of the streets, avenues, and alleys in the city or town or in the addition ~~thereto~~ contiguous to or near the proposed addition.

(2) The owner of any addition has no rights or privileges unless the terms and conditions of the ordinance are complied with and the plat ~~thereof~~ of the addition has been submitted to and approved by the mayor and council and ~~such the~~ approval endorsed ~~thereon~~ on the plat.

(3) The council may not, by ordinance or annexation, compel the owner of an addition to dedicate property to or pay a fee for the purpose of providing housing within the municipality."

Section 4. Section 76-2-203, MCA, is amended to read:

1 **"76-2-203. Criteria and guidelines for zoning regulations.** (1) Zoning regulations must be made in

2 accordance with the growth policy and must be designed to:

3 (a) lessen congestion in the streets; ~~to~~

4 (b) secure safety from fire, panic, and other dangers; ~~to~~

5 (c) promote public health and general welfare; ~~to~~

6 (d) provide adequate light and air; ~~to~~

7 (e) prevent the overcrowding of land; ~~to~~

8 (f) avoid undue concentration of population; and ~~to~~

9 (g) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public
10 requirements.

11 (2) Zoning regulations must be made with reasonable consideration, among other things, to the
12 character of the district and its peculiar suitability for particular uses and with a view to conserving the value of
13 buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

14 (3) Zoning regulations must, as nearly as possible, be made compatible with the zoning ordinances of
15 the municipality within the jurisdictional area.

16 (4) The zoning regulations may not include a requirement to dedicate property to or pay a fee for the
17 purpose of providing housing within the county."

18
19 **Section 5.** Section 76-2-302, MCA, is amended to read:

20 **"76-2-302. Zoning districts.** (1) For the purposes of 76-2-301, the local city or town council or other
21 legislative body may divide the municipality into districts of the number, shape, and area as are considered best
22 suited to carry out the purposes of this part. Within the districts, it may regulate and restrict the erection,
23 construction, reconstruction, alteration, repair, or use of buildings, structures, or land.

24 (2) All regulations must be uniform for each class or kind of buildings throughout each district, but the
25 regulations in one district may differ from those in other districts.

26 (3) The zoning regulations may not include a requirement to dedicate property to or pay a fee for the
27 purpose of providing housing within the city or town.

28 ~~(3)~~(4) In a proceeding for a permit or variance to place manufactured housing within a residential zoning
29 district, there is a rebuttable presumption that placement of a manufactured home will not adversely affect
30 property values of conventional housing.

~~(4)~~(5) As used in this section, "manufactured housing" means a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in 61-1-501.

~~(5)~~(6) This section may not be construed to limit conditions imposed in historic districts, local design review standards, existing covenants, or the ability to enter into covenants pursuant to Title 70, chapter 17, part 2."

NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 76, chapter 3, part 5, and the provisions of Title 76, chapter 3, part 5, apply to [section 2].

NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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